

ORDINANCE NUMBER 4

AN ORDINANCE RELATED TO MANDATORY FOOD SERVICE TRAINING IN LINCOLN TRAIL DISTRICT HEALTH DEPARTMENT, KENTUCKY

WHEREAS, it is the duty of the Lincoln Trail District Health Department, pursuant to KRS Chapter 212, to establish policies, plans and programs to safeguard the health of the citizens of the Lincoln Trail District, KY and

WHEREAS, it is the duty of the Lincoln Trail District Health Department, pursuant to KRS Chapter 212, to investigate and abate nuisances, sources of filth, and causes of sickness and illness, and

WHEREAS, food service managers that fail to follow procedures that will assure safe, clean, sanitary conditions and standards may promote a cause of sickness or an illness.

NOW, THEREFORE, pursuant to the authority granted to the Lincoln Trail District Health Department under the provisions of KRS Chapter 212 et seq., be it ordained by the Lincoln Trail District Board of Health as follows:

LINCOLN TRAIL DISTRICT HEALTH DEPARTMENT ORDINANCE PERTAINING TO FOOD MANAGER CERTIFICATION

Section 1

Definitions

For the purpose of this ordinance:

1. "Approved Course" means a nationally accredited program; or Local Health Department Training that addresses the food safety issues described in 2-102.11(C) of the 2005 FDA food code.
2. "Person in charge" means the individual present at a food establishment who is responsible for the operation at the time of inspection.
3. "Demonstration of Knowledge" means based on the risks inherent to the food operation, during inspections and upon request the person in charge shall demonstrate to the regulatory authority knowledge of foodborne disease prevention, application of the hazard analysis and critical control point principles, and requirements of the current Kentucky Food Code, 902 KAR 45:005.
4. "Food" means any raw, cooked, or processed edible substance, ice, beverage or ingredient used or intended for sale, in whole or in part, for human consumption.
5. "Potentially Hazardous Food" means any food which consists in whole or in part of milk or milk products, eggs or egg products, meat or meat products, poultry or poultry products, fish or fish products, shellfish (oysters, clams, mussels and

- edible crustaceans) or shellfish products, cooked rice, or other ingredients including synthetic ingredients, in a form capable of supporting rapid and progressive growth of infectious or toxigenic microorganisms. This term does not include clean, whole, uncracked, odor-free shell eggs or food which have a pH level of 4.6 or below or a water activity (Aw) value of 0.85 or less, nor does it include air cooled hard-boiled eggs with shell intact or foods in unopened hermetically sealed containers which have been commercially processed to achieve and maintain commercial sterility under conditions of non refrigerated storage.
6. "Food Service Establishment" means any fixed or mobile commercial establishment that engages in the preparation and serving of ready-to-eat foods in portions to the consumer, including, but not limited to: restaurants; coffee shops; cafeterias; short order cafes; luncheonettes; grills; tea rooms; sandwich shops; soda fountains; taverns; bars; cocktail lounges; nightclubs; roadside stands; industrial feeding establishments; private, public or nonprofit organizations or institutions routinely serving food; catering kitchens; commissaries; or similar places in which food is prepared for sale or service on the premises or elsewhere with or without charge. It shall not include food vending machines, establishments serving beverages only in single service or original containers or retail food stores.
 7. "Retail Food Store" means any fixed or mobile establishment where food or food products, including prepackaged, labeled sandwiches or other food to be heated in a microwave or infrared oven at the time of purchase, are offered for sale to the consumer, and intended for off-premises consumption, but shall not include establishments which handle only prepackaged, snack-type, non-potentially hazardous foods, markets that offer only fresh fruits and vegetables for sale, food service establishments, food and beverage vending machines, vending machine commissaries or food processing establishments.
 8. "Retail Food Establishment" means any food service establishment, retail food store or a combination of both within the same establishment.
 9. "Restricted Food Concessions" means any food service establishment which shall prepare and serve only non-potentially hazardous foods, except that plain frankfurters with bread and nachos with cheese sauce may be served. It shall not include concessions or establishments which serve only prepackaged, snack type non-potentially hazardous foods.
 10. "Mobile Food Unit" means a vehicle-mounted food service establishment designed to be readily moveable.
 11. "Temporary Food Service Establishment" means any food service establishment which operates at a fixed location for a period of time, not to exceed fourteen (14) consecutive days.

Section 2

A. Food Safety Certification Required

The permit holder shall be the person in charge or shall designate a person or persons in charge and shall ensure that a person in charge is present at the food establishment during all hours of operation. At least one (1) person in charge (PIC) in every food service establishment, or retail food establishment, shall upon employment and within 60 days, and thereafter every three (3) years, be required to attend a food safety training course and successfully pass an examination as determined by the Lincoln Trail District Health Department pertaining to knowledge of basic food safety procedures relevant to the prevention of food borne disease. It shall be the responsibility of the permit holder to ensure that employees enroll in a Lincoln Trail District Health Department PIC or provide valid proof of certification in another approved certified course within sixty (60) days of hire.

B. Food Safety Demonstration of Knowledge Required

All persons in charge of food service establishments and retail food establishments located within the Lincoln Trail District Health Department service area shall demonstrate knowledge of foodborne disease prevention as required by 902 KAR 45:005. Inability to provide current certification of PIC at the time of inspection which results in violation number 13 during inspections shall result in mandatory food training attendance. Persons in charge shall obtain certified status by obtaining PIC certification administered by the Lincoln Trail District Health Department or other recognized food safety certification courses with health department approval. Reasonable fees may be charged for the application for the PIC certification. For application or renewal of certification a fee not to exceed \$50.00 will be charged. Certification will be valid for a period of three (3) years. A post assessment examination shall be given and a score of 85% or greater is required for obtainment of certificate. Failure to obtain 85% or greater will result in reexamination and payment of original fee not to exceed \$50.00. A certificate will be issued after successful completion of the examination.

C. Compliance Required for Certification

It shall be the responsibility of the permit holder to ensure compliance with the provisions of this ordinance. Establishments failing to comply with the provisions of this ordinance shall be issued by the department, a written notice or order which shall allow a reasonable time for compliance, not to exceed ten (10) working days (enrollment in a Lincoln Trail District Health Department certification course or valid proof of enrollment in an approved certified course within ten (10) working days with a satisfactory completion of this course within sixty (60) days shall be considered compliance).

D. Application For Certification

All food service workers and managers seeking certification shall make application for certification to the Lincoln Trail District Health Department. Applicants shall

complete the Lincoln Trail District Health Department certification course or provide sufficient documentation necessary for the department to evaluate other courses for approval. A fee of ten dollars (\$10.00) will be charged for processing and registering persons with other approved certification courses.

Section 3

Renewal of Certification

A holder of a food safety certification certificate shall renew his/her certificate every three (3) years in accordance with requirements specified by the health authority including payment of any applicable fees.

Section 4

Proof of Certification

Each certified PIC shall make his/her certificate available for inspection by the health authority upon request. It shall be the responsibility of the permit holder to ensure copies are obtained and kept by the establishment.

Section 5

Certificate Not Transferable

A food manager certification is not transferable from one person to another.

Section 6

Rules for Administration and Enforcement

- a. Lincoln Trail District Health Department Board of Health or its designee is responsible for the enforcement of this ordinance.
- b. Any person or establishment issued a notice will be afforded an opportunity for a conference, if a written request for such is filed with the Lincoln Trail District Health Department within ten (10) working days of their receiving the official notice or order. The conference provided for in this ordinance shall be conducted by the department at a time and place designated by the department.
- c. Pursuant to KRS 212.230(f) the Lincoln Trail District Health Department Board of Health shall hear and decide appeals from rulings, decisions, and actions of the local health department or health officers, where the aggrieved party makes written request to the Lincoln Trail District Health Department Board of Health within thirty (30) days after the ruling, decision, or action complained of.

Section 7

Exemptions

Food establishments that serve, sell, or distribute only prepackaged foods and beverages (retail food stores) are exempt from the provisions of this ordinance. Temporary food service establishments and seasonal restricted establishments may also be exempted by the health authority. Farmer's Market permit holders shall be exempted by the health authority.

Section 8

Fee Exemptions

Private, parochial, and public school cafeterias or lunchroom facilities through the twelfth (12th) grade and all facilities operated by the Cabinet for Health Services or Corrections Cabinet and all facilities that meet the definition of "charitable food kitchen" as defined by KRS 217.125 shall be exempt from the payment of fees, but shall comply with all other provisions of this ordinance.

Section 9

Penalties

Any permit holder found to be in violation shall be ordered to comply with this ordinance. If any permit holder does not comply with the order of the Lincoln Trail District Health Department Board of Health, then pursuant to KRS 212.715 and KRS 212.990(2), the owner or operator of the food establishment shall be subject to a fine of not less than ten (\$10.00) nor more than one hundred (\$100.00) dollars for each day of non-compliance.

Section 10

Effective Date

THE ORDINANCE SHALL BECOME EFFECTIVE UPON PASSAGE AND PUBLICATION.

GIVEN FIRST READING AND ORDERED PUBLISHED BY THE **Lincoln Trail**

District Health Department Board of Health ON THIS 30th DAY OF November, 2010.

EFFECTIVE DATE: September 1, 2011.

Lincoln Trail District Health Department Board of Health